

Volusia County Sheriff's Office Supervisor Investigation Report

Incident Entered By: LT Thomas Tatum - 2405

Assigned Investigator: [Incident pending assignment]

Incident Details

Date Received	Date of Occurrence	Time of Occurrence
1/11/2019	1/10/2019	13:19
Record ID #	Agency Case #	File #
24923	19-810	SI 19-003
Date/Time Entered		
1/15/2019 13:51		

Incident Summary

Incident: VCSO Case #19-810

On Thursday January 10, 2019, New Smyrna Beach High School Administrators were notified of a student who was in possession of a firearm in the courtyard during lunch. The student was in a "Rap" contest with several other students when the suspect reportedly pulled the firearm from his coat pocket and then placed it in his backpack. The firearm was observed by several students and described as a black "Glock" type handgun. School Officials notified School Resource Deputy Anthony Abato who was busy with a female Baker Act in his office. Deputy Abato eventually responded along with the New Smyrna Beach Police Department, located the student/suspect and arrested him. Search of the student/suspect yielded no firearm. Officers with New Smyrna Beach Police Department searched the immediate area and located an Airsoft pistol in the trash can in the courtyard. The pistol was a lifelike replica of a real firearm, with the exception of an orange tip on the barrel.

On Friday January 11, 2019, at approximately 1130 hours, Lieutenant Tatum was notified by Sergeant Jonelle Hillyard of a meeting Deputy Abato had with New Smyrna Beach School Administrators. The meeting was presented as a "Hotwash" or debriefing of the incident that took place the previous day involving the student with a firearm. As a result of the meeting, School Administrators determined they did not have confidence in Deputy Abato due to his failure to take immediate action when notified of a possible gun on campus.

Lieutenant Tatum notified Captain Erik Eagan of the School Administrative meeting and the concern the school had about Deputy Abato. Captain Eagan directed Lieutenant Tatum to meet with New Smyrna Beach High School to gain additional information on the incident.

Supervisor Investigation:

On January 11, 2019, at approximately 1400 hours, Lieutenant Tatum met with New Smyrna Beach High School Administrators in the conference room at the High School. In attendance of the meeting were Principal Matthew Krajewski, Assistant Principal (AP) Timothy Merrick and Assistant Principal (AP) Julian Doster.

AP Merrick stated yesterday, January 10, 2019, he was in a meeting in his office and was interrupted by Ms. Brenda Hamilton, the Principal's secretary, notifying him of a possible student with a firearm on campus. Ms. Hamilton initially tried to take the witness to Deputy Abato, but he was dealing with a Baker Act. AP Merrick directed Ms. Hamilton to go back to Deputy Abato's office and report the firearm sighting since it took priority over the Baker Act. Ms. Hamilton did as instructed and told Deputy Abato, who reportedly got on his police radio (unknown what was said).

AP Merrick advised he called AP Doster on the school radio and informed him of the report to include the name of the student. AP Merrick said he called Deputy Abato on the school radio and Deputy Abato said he was in the middle of something. Knowing Deputy Abato had been notified of the situation by Ms. Hamilton, AP Merrick advised Deputy Abato to switch to Channel 2 on the school radio. Deputy Abato said he was coming out (of his office). AP Merrick stated he was standing outside of Deputy Abato's office when he came out. Deputy Abato asked Ms. Hamilton to watch the Baker Act, who in turn found a clerk to assist.

AP Merrick stated Deputy Abato began to walk to the front of the school, the opposite direction of where the student/suspect was in the courtyard. AP Merrick said he asked Deputy Abato what he wanted staff to do; Deputy Abato reportedly said he was waiting on backup. AP Merrick said he asked two of the campus advisors

if they were comfortable with making contact with the student/suspect and try to talk him into going to his office and explained he may have a gun. Both campus advisors were comfortable with making contact.

During this time, the student/suspect was walking around the courtyard; he walked up the staircase to the catwalk on the second floor and continued walking around. Campus advisors and AP Doster were able to keep a visual on the student/suspect. One of the campus advisors began to follow the student/suspect along the upstairs walkway. The campus advisor called the student/suspect name; he turned and continued to walk away. As the student/suspect moved downstairs, he was met by New Smyrna Beach Police Officers and Deputy Abato where he was handcuffed and taken into custody.

AP Doster stated he was called on the school radio by AP Merrick advising of the student with a gun on campus. AP Doster was in a meeting with a teacher at the time of the notification and he was told by AP Merrick that Deputy Abato was not going to respond at that time. AP Doster stated a campus advisor came to his office and said he had a different student who was reporting the same incident. AP Doster looked out his window and observed the student/suspect in the courtyard talking with two other students. Several other campus advisors were out in the courtyard keeping a visual on the student/suspect. AP Doster said he called on the radio for Deputy Abato to respond immediately while they had a visual on the student/suspect. AP Doster did not see Deputy Abato until New Smyrna Beach Police arrived and Deputy Abato assisted in taking the student/suspect into custody. Once the student/suspect was taken into custody, AP Doster called for a lockdown of the school. AP Doster stated Officers from the New Smyrna Beach Police Department located the pistol which turned out to be an Airsoft gun in a trash can. AP Doster then lifted the lockdown.

Principal Krajewski stated he was not on campus the day of the incident, but was notified by AP Doster as it was happening. Principal Krajewski called for a meeting to debrief the incident and address concerns they had on Deputy Abato's response. During the conversation, Principal Krajewski stated when they confronted Deputy Abato about his lack of immediate response, Deputy Abato said he would have done things differently, but did not elaborate.

At the conclusion of the meeting with school officials, Lieutenant Tatum contacted Captain Eagan and briefed him on the information. Captain Eagan notified the Chain of Command and the decision was made to reassign Deputy Abato until further notice pending the outcome of the investigation. Arrangements were made to have a Deputy on campus to fill in for Deputy Abato.

On January 14, 2019, Lieutenant Tatum, Lieutenant Michelle Newman and Captain Eagan met with New Smyrna Beach School Administrators; Principal Krajewski, AP Doster, AP Merrick and Volusia County School Board Chief Operations Officer Greg Akin to discuss the incident/lockdown. At that time, School Administrators were advised of the reassignment of Deputy Abato and they relayed their concerns as stated at the previous meeting on January 11, 2019.

Lieutenant Tatum viewed the body camera video from Deputy Abato from the day of the incident. The incident was divided into 4 videos. The first video was Deputy Abato handling a report of a suicidal female student. This video began at 1246 hours and lasted 34 minutes. Approximately 28 minutes into the video, there is a knock on Deputy Abato's door and Ms. Hamilton informs Deputy Abato that a student was observed in possession of a gun on campus. Deputy Abato told her he was busy with the Baker Act and would call New Smyrna Beach Police. Deputy Abato called Volusia County Central Dispatch on his police radio and asked for the assistance of New Smyrna Beach Police and to have them expedite to the school. Deputy Abato did not tell Central that there was a report of a student with a gun on campus. He asked if they could call him at the school. He then called his Sergeant, Jonelle Hillyard on the phone and explained that he had a Baker Act in custody and there was a report of a student with a gun on campus. Deputy Abato explained that he could not leave the Baker Act to respond. Sergeant Hillyard at that time did not advise Deputy Abato to find someone to watch is Baker Act and respond to the priority call of a weapon on campus, but asked him if he notified New Smyrna Beach Police, which he already did.

Deputy Abato notified Central and advised to send a second unit and he would "send them an MDC message." Deputy Abato continued to type his report on the Baker Act. AP Merrick could be heard calling Deputy Abato on the school radio asking him to come out of his office; Deputy Abato responded that he already had New Smyrna on the way. AP Merrick asked Deputy Abato to come meet him and Deputy Abato replied "I can't, I have a Baker Act I'm stuck on, but Ms. Hamilton gave me the info real quick." AP Merrick asked Deputy Abato to switch to Channel 2 on the school radio. Deputy Abato then asked AP Merrick to call his extension on the phone and continued to type his report. AP Merrick then knocked on Deputy Abato's door at 33 minutes into the video (5 minutes after he was initially notified) and asked "Do you think I should interact?" At that time, Sergeant Hillyard could be heard on the police radio tell Deputy Abato to turn the Baker Act over to Administration and go. The responding New Smyrna Beach unit could be heard asking if it was 10-46 (emergency response) and Sergeant Hillyard could be heard on the police radio advising the units of a student with a gun on campus. The New Smyrna Beach Police responding unit could be heard saying "That's important" and his siren could be heard in the background indicating an expedited response.

The second body camera video is a continuation from the first video and begins at 1319 hours. Deputy Abato and AP Merrick were talking in the hallway. AP Merrick told Deputy Abato that he could try to get the student to come over to him; Deputy Abato said he wanted to wait until a few New Smyrna Beach units arrived. They discussed the student may be a runner. Deputy Abato stepped into his office and grabbed his school radio. At

that time, Deputy Abato could be seen on his body camera walking to the front of the school. The student with the firearm was in the courtyard, the opposite direction Deputy Abato was walking. AP Merrick and the two campus advisors were observed moving in the direction of the courtyard toward the threat. Deputy Abato walked back and forth in the hallway. Once he heard New Smyrna units arrive on scene, he moved down the hallway toward the courtyard. Deputy Abato advised the New Smyrna unit to come in the front doors, and that he was trying to get additional information. Deputy Abato did not make any attempt to gather any additional information. Deputy Abato once again began to walk toward the front door as the New Smyrna unit arrived and came running down the hallway.

Once Deputy Abato met with the New Smyrna unit, they both walked to the courtyard and Deputy Abato asked on the school radio if anybody saw where the student/suspect went. He was advised the student/suspect was on the catwalk. After a short observation, they identified the student/suspect made the approach and took him into custody without incident. The Airsoft gun was eventually located in a trash can by a New Smyrna Beach Police Officer.

Note:

A review of the video timeline indicated Deputy Abato was initially contacted and notified of the gun on campus by Ms. Hamilton at 1314 hours. Contact was made with the defendant at 1324 hours resulting in a 10 minute response.

The two other videos were of Deputy Abato typing his report and transporting the defendant to the Volusia County Branch Jail.

Based upon the initial information documented in this Supervisor Inquiry, I recommend further review by Internal Affairs.

Incident Location

- 1015 10th Street, New Smyrna Beach, FL 32128 - Location of Occurrence: District 3 South

Categories

Reporting Employees

CAPT Erik Eagan - DID #: 2273

Involved Employees

DEP Anthony Abato - DID #: 2496

Assignment at time of incident: Title: DEP CSSR

Video Footage: Issued - Activated

Role

- Primary

Citizen Witnesses

Julian Doster**- Race: White - Gender: Male****Address**

- 1015 10th Street, New Smyrna Beach, FL 32168

Phone

- (904) 631-7513

Role

-

Brenda Hamilton**- Race: White - Gender: Female****Address**

- 1015 10th Street, New Smyrna Beach, FL 32168

Phone

- (386) 424-2555

Role

-

Matthew Krajewski**- Race: White - Gender: Male****Address**

- 1015 10th Street, New Smyrna Beach, FL 32168

Phone

- (386) 424-2555

Role

-

Timothy Merrick**Address**

- 1015 10th Street, New Smyrna Beach, FL 32168

Phone

- (386) 689-2874

Role

-

Tasks

No tasks to show

Running Sheet Entries

No running sheet entries to show

Attachments

Date Attached	Attachment Description	Attachment Type
1/15/2019	VCSO Incident report 19-810	
1/15/2019	Supplement report VCSO case 19-810	

1/15/2019	Initial BWC video includes (Baker Act)	
1/15/2019	Video Two-BWC from Deputy Abato (continued from initial Baker Act video)	
1/15/2019	BWC video (Dep. Abato report writing)	
1/15/2019	Video four-BWC (Dep. Abato report writing)	
1/15/2019	Video 5- BWC (Dep. Abato transport to VCBJ)	
1/15/2019	Email statements from: Timothy Merrick Julian Doster Brenda Hamilton	pdf
1/15/2019	CAD Call 19-810	

Assignment History

Sent Dt	From	To
1/24/2019	Sergeant Ryan Mills	(None Specified)
Assignment notes Field status changed in IAPro from To IA to Released		
Email sent to receiver No email sent		
1/24/2019	Sergeant Ryan Mills	(None Specified)
Assignment notes Released back to IAPro		
Email sent to receiver No email sent		

Chain of Command History

Routing #1	
Sent From:	LT Thomas Tatum
Sent To:	Admin Group
CC:	CAPT Erik Eagan
Sent Date/Time:	1/15/2019 3:17 PM
Instructions from LT Thomas Tatum to Admin Group:	
FYR	
Comments/Response from CAPT Eric Westfall:	
Comments: [Forwarded by CAPT Eric Westfall]	
Routing #2	
Sent From:	CAPT Eric Westfall
Sent To:	DCHF Timothy Morgan
CC:	CHDP Joseph Gallagher
Sent Date/Time:	1/15/2019 5:41 PM
Instructions from CAPT Eric Westfall to DCHF Timothy Morgan:	
Concur	
Comments/Response from DCHF Timothy Morgan:	
Comments: [Forwarded by DCHF Timothy Morgan]	
Routing #3	
Sent From:	DCHF Timothy Morgan

Sent To:	CHDP John Creamer
CC:	(none)
Sent Date/Time:	1/16/2019 3:01 PM
Instructions from DCHF Timothy Morgan to CHDP John Creamer:	
FYR and recommendation	
Comments/Response from CHDP John Creamer:	
Comments: Forward to IA for investigation	

Routing #4	
Sent From:	CHDP John Creamer
Sent To:	Admin IA
CC:	(none)
Sent Date/Time:	1/24/2019 10:31 AM
Instructions from CHDP John Creamer to Admin IA:	
FYA	
Comments/Response from SGT Ryan Mills:	
Comments: [Forward to IAPro by SGT Ryan Mills]	

Assigned Investigator Signature Line

[Incident pending assignment]

Chain of Command Signature Lines

CAPT Eric Westfall

DCHF Timothy Morgan

CHDP John Creamer

SGT Ryan Mills